STATE OF NEW YORK

10445

IN ASSEMBLY

May 23, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Bichotte Hermelyn) -- read once and referred to the Committee on Cities

AN ACT to amend the New York city charter, the education law, the general municipal law, the labor law, the public authorities law, the New York city health and hospitals corporation act, and the New York city public works investment act, in relation to employment opportunities for economically disadvantaged candidates and economically disadvantaged region candidates and apprenticeship utilization on public transactions; and providing for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature finds that both within the city of New York and across the United States, over the past several decades, income inequality has expanded and that poverty is frequently concentrated in economically disadvantaged regions. The legislature also finds that economic disparities across individuals and across communities have further expanded due to the economic and health effects of the virus known as COVID-19. The purpose of this legislation is to remediate these economic disparities by authorizing the city of New York, the city school district of the city of New York, the New York city school construction authority, the New York city health and hospitals corporation, the New York city industrial development agency, and other city-affiliated not-for-profit corporations to use the economic power of their transactions to implement programs by administrative rule requiring contractors and subcontractors benefitting from such transactions to make best efforts to employ qualified economically disadvantaged candidates and qualified candidates in such economically disadvantaged regions.

§ 2. The New York city charter is amended by adding a new chapter 78 to read as follows:

Chapter 78

COMMUNITY HIRING AND WORKFORCE DEVELOPMENT

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11713-05-2

§ 3401. Definitions. As used in this chapter, the following terms shall have the following meanings:

Absorption hire. The term "absorption hire" means an individual who fills a building service opportunity and who:

(1) was employed to perform building service work within the preceding six months at the same facility to which such individual is assigned; or

(2) fills such building service opportunity as a result of a reassignment by a contractor or subcontractor, as applicable, due to a displacement caused by the closure of another facility, a staffing reduction at another facility, or any other similar event.

Apprentice. The term "apprentice" means an individual who is receiving training and performing labor pursuant to an apprenticeship agreement.

Apprenticeship agreement. The term "apprenticeship agreement" means an agreement, as such term is defined by section eight hundred sixteen of the labor law, that has been registered with, and approved by, the commissioner of labor of the state of New York pursuant to article twenty-three of the labor law.

Building service opportunity. The term "building service opportunity" means an employment opportunity to perform building service work.

Building service opportunity labor hour. The term "building service opportunity labor hour" means a labor hour performed by an individual employed to fill a building service opportunity.

Building service work. The term "building service work" means the classifications of labor that the applicable fiscal officer has identified as consistent with section two hundred thirty of the labor law, regardless of whether such labor constitutes building service work for which workers are entitled to prevailing wage pursuant to article nine of the labor law.

City-affiliated not-for-profit corporation. The term "city-affiliated not-for-profit corporation" means a local development corporation or other not-for-profit corporation, a majority of whose members are appointed by the mayor.

Construction. The term "construction" means:

(1) any labor of a type that the applicable fiscal officer, as defined in paragraph e of subdivision five of section two hundred twenty of the labor law, has identified in a published schedule as a classification of work performed by laborers, workmen or mechanics, regardless of whether such labor constitutes public work pursuant to such section; and

(2) any additional types of labor identified by the director by rule, provided that such labor shall not include building service work.

Contractor. The term "contractor" means an individual, company, corporation, partnership, or other entity that has entered into a transaction with the city, except that the term "contractor" does not include:

(1) any governmental entity;

(2) any microbusiness, other than a microbusiness performing construction work under a transaction; or

(3) any labor organization.

Director. The term "director" means the director of the office of community hiring and workforce development or his or her designee.

Economically disadvantaged candidate. The term "economically disadvantaged candidate" means an individual:

(1) whose income or household income falls below an applicable quantitative threshold determined by the director, provided that such income shall not include any types of public benefits provided by the federal government or a state or local government and identified by the director; and

(2) who is certified as meeting all applicable requirements.

Economically disadvantaged region. The term "economically disadvantaged region" means an area, represented by its ZIP code, in which at least fifteen percent of residents have household incomes below the federal poverty threshold.

Economically disadvantaged region candidate. The term "economically disadvantaged region candidate" means an individual who is certified as meeting all applicable requirements and who is a:

(1) resident of an address within an economically disadvantaged region;

(2) resident of a building that is:

(i) owned or operated by the New York city housing authority; and

(ii) subject to section nine of the United States Housing Act of nineteen hundred thirty-seven, as amended; or

(3) resident of a dwelling unit that is:

(i) subject to a regulatory agreement with a federal, state or local government agency requiring that occupancy of such unit be restricted based on the income of the occupants; and

(ii) located in a building that was previously operated by the New York city housing authority, was previously subject to section nine of the United States Housing Act of nineteen thirty-seven, as amended, and is subject to section eight of such act.

Employment opportunity. The term "employment opportunity" means a vacancy in a position to perform services under a transaction.

Exempt transaction. The term "exempt transaction" includes any:

(1) contract procured pursuant to section one hundred sixty-two of the state finance law;

(2) contract for the performance of services by a city-affiliated not-for-profit corporation;

(3) contract the principal purpose of which is the supply of goods;

(4) contract in an amount below the small purchase threshold set pursuant to the authority and procedure set forth in subdivision a of section three hundred fourteen of the charter;

(5) contract for confidential or investigative services or any other type of contract excluded by a rule adopted by the director based on a determination that the application of goals under this program would substantially undermine the primary objective of that type of contract;

(6) contract subject to federal or state funding requirements that preclude or substantially conflict with the application of goals under this program;

(7) contract for emergency demolition services procured by the department of housing preservation and development pursuant to the procedure set forth in section three hundred fifteen of the charter; or

(8) line item appropriations or discretionary funds allocated to a community-based not-for-profit organization or other public service organization and identified in the budget adopted pursuant to section two hundred fifty-four of the charter or any related council resolutions, except as otherwise provided by rule by the director.

Labor organization. The term "labor organization" has the meaning provided in section one hundred fifty-two of title twenty-nine of the United States code, or any successor provision.

Microbusiness. The term "microbusiness" means an individual, company, corporation, partnership or other entity that employs no less than one employee and no more than nine employees.

MWBE. The term "MWBE" means a business certified as a minority or women-owned business enterprise pursuant to article fifteen-A of the executive law or section thirteen hundred four of the charter.

Project labor agreement. The term "project labor agreement" means a pre-hire collective bargaining agreement entered into between the city and a bona fide building and construction trade labor organization establishing the labor organization or its affiliates as the collective bargaining representative for all persons who will perform construction work on a transaction, provided such agreement:

(1) provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform such work on such transaction; and

(2) includes goals for the employment of qualified economically disadvantaged region candidates to perform such work.

Referral source. The term "referral source" means an individual, company, corporation, partnership, agency, union referral system, or other entity selected pursuant to paragraph three of subdivision a of section thirty-four hundred two of this chapter to make referrals of candidates to contractors, prospective contractors, subcontractors, and prospective subcontractors for the purposes of meeting the applicable employment goals set forth in such section; provided that union referral systems that have affiliated registered apprentice programs with direct entry access from pre-apprentice programs that are compliant with United States department of labor or New York state department of labor regulations, as well as union referral systems with community recruitment programs, shall be deemed an approved referral source for the purposes of paragraph three of subdivision a of section three thousand four hundred two of this chapter.

Small business. The term "small business" means an entity that:

(1) is independently owned and operated; and

(2) has annual gross revenues not exceeding five million dollars or a lesser amount established by the director by rule.

Subcontractor. The term "subcontractor" means an individual, company, corporation, partnership or other entity that has entered into an agreement with a contractor or another subcontractor in order to perform services or any other obligation under a transaction, provided that such agreement involves the performance of construction work of any value, or the total dollar value of such agreement exceeds twenty thousand dollars, and further provided that the term "subcontractor" does not include:

(1) employees;

(2) governmental entities;

(3) microbusinesses, other than microbusinesses performing construction work under a transaction; or

(4) labor organizations.

Transaction. The term "transaction" means, a procurement contract except that the term "transaction" shall not include any exempt transaction.

§ 3402. Office of community hiring and workforce development. a. Office established. The mayor shall establish an office of community hiring and workforce development. Such office may be established as a separate office or within any department the head of which is appointed by the mayor. The office of community hiring and workforce development shall be headed by a director who shall be appointed by the mayor or head of such department. The director shall, as the director deems

appropriate, adopt rules consistent with the purpose of this chapter relating to employment goals on transactions, including rules:

(1) requiring contractors and subcontractors to agree to publicly disclose employment opportunities;

(2) establishing a procedure for the certification of individuals as economically disadvantaged candidates, economically disadvantaged region candidates, or both, provided that such certification procedure shall, to the extent the director deems feasible, use data sources and administrative processes established or maintained by the city for other programs or operations in order to minimize administrative burdens on contractors, subcontractors, and individuals;

(3) establishing a procedure by which the director may approve referral sources for the purposes of this section, whereby the director shall:

(i) publicly release a referral source solicitation that includes a description of functions of a referral source, the manner in which responses must be submitted, and the criteria by which responding entities will be approved, and authorize one or more entities, as appropriate, to function as referral sources, based on the criteria included in the solicitation;

(ii) authorize an agency in writing to function as a referral source;

(iii) authorize, in writing, an entity engaged pursuant to an agreement with an agency for employment recruitment services or other workforce development services to function as a referral source; or

(iv) identify and deem union referral systems that have affiliated registered apprentice programs with direct entry access from pre-apprentice programs and that are compliant with United States department of labor or New York state department of labor regulations, as well as union referral systems with community recruitment programs, as approved referral systems;

(4) establishing a procedure through which the director may provide information regarding referral sources to contractors, subcontractors, prospective contractors, and prospective subcontractors;

(5) establishing a procedure by which the director shall monitor and criteria by which the director shall evaluate the performance of each referral source on an annual basis, and where the director determines that a referral source has performed inadequately, terminate or suspend the referral source;

(6) requiring contractors to agree to make best efforts to interview, as appropriate, and to employ qualified economically disadvantaged region candidates in order to meet employment goals relating to building service work based on:

(i) the percentage of building service opportunities filled by economically disadvantaged region candidates, provided that in calculating such goals, absorption hires shall not be considered; or

(ii) the percentage of building service opportunity labor hours performed by economically disadvantaged region candidates, provided that in calculating such goals, building service opportunity labor hours performed by absorption hires shall not be considered;

(7) requiring contractors and subcontractors to agree to make best efforts to employ qualified economically disadvantaged region candidates to perform no less than thirty percent of the cumulative hours of construction labor on transactions involving construction work, and additionally requiring, to the extent feasible consistent with the maximum ratios of apprentices to journey-level workers established by the New York state department of labor, that such contractors and subcon-

tractors agree to make best efforts to employ apprentices who are qualified economically disadvantaged region candidates to perform no less than nine percent of such cumulative hours of construction labor, provided that labor performed by apprentices who are qualified economically disadvantaged region candidates shall be credited towards the achievement of both employment goals set forth in this paragraph, and further provided that prior to releasing a solicitation for a transaction or otherwise initiating a process for entering into a transaction, as applicable, the director may waive such requirements where the director determines in writing that such waiver is in the best interest of the city;

(8) requiring contractors to agree to make best efforts to interview and to employ qualified economically disadvantaged candidates in order to meet employment goals relating to work that neither involves construction work nor building service work, and establishing such goals based on:

(i) the percentage of the cumulative hours of labor performed by such candidates;

(ii) the percentage of employment opportunities filled by such candidates; or

(iii) the total value of the transaction;

(9) requiring subcontractors to agree to make best efforts to interview, as appropriate, and to extend offers of employment to qualified candidates in order to meet any employment goals described in paragraph six or eight of this subdivision and established pursuant to rules adopted by the director;

(10) establishing a schedule of civil penalties, based on factors including but not limited to a contractor's industry or any relevant occupations employed by a contractor or subcontractor, that the director or an applicable agency may impose on a contractor due to the contractor's or subcontractor's non-compliance with an obligation created pursuant to this section and a procedure for the imposition of such penalties, which will not exclude other remedies established in this charter or any other law, provided that any civil penalties imposed pursuant to this paragraph shall not exceed two thousand five hundred dollars for each non-compliance with such an obligation or each failure to correct such non-compliance, and further provided that when promulgating rules establishing or amending such a schedule of civil penalties, the director shall consider the potential impact of such penalties on contractors and subcontractors that are MWBEs, not-for-profit corporations, or small businesses;

(11) designate paper or electronic formats for the submission of documents related to the selection and operation of referral sources and contractors and subcontractors subject to goals pursuant to paragraphs six through nine of this subdivision, as applicable, including but not limited to, documents containing information required pursuant to paragraphs one and three of this subdivision and subdivision c and subparagraphs (E) and (F) of paragraph one of subdivision d of this section; solicitation documents and responses, including bids and proposals; and data related to labor performed pursuant to transactions, including payroll reports, as applicable; and

(12) (A) authorizing the director to establish factors by which goals described in paragraphs six, eight, and nine of this subdivision will be established for individual transaction, including:

(i) the scope of the transaction;

(ii) the availability of qualified economically disadvantaged candidates and economically disadvantaged region candidates;

(iii) the nature of any employment opportunities that the director expects will result from the transaction;

(iv) the potential impact of such goal on contractors and subcontractors, as applicable, that are MWBEs, not-for-profit corporations, or small businesses; and

(v) any other similar factors.

(B) Prior to setting a goal pursuant to this subdivision for an individual transaction, the agency entering into the transaction shall consider the goals set for previous, similar transactions and whether such goals were appropriate for such transactions.

b. Lists of economically disadvantaged regions. No later than ninety days after the effective date of this section, and at least once during each twelve-month period thereafter, the director shall publish a report including an updated list of all economically disadvantaged regions within a radius of one hundred miles of the city or all such economically disadvantaged regions within the metropolitan area. Nothing shall preclude an individual whose residence is within an economically disadvantaged region that is not included in such list from qualifying as an economically disadvantaged region candidate for the purposes of goals set under this section.

c. Reporting. No later than one hundred eighty days after the effective date of this section and each quarter thereafter, the office of community hiring and workforce development shall publish a report on a website maintained or controlled by the city, pursuant to rules adopted by the director, that shall include, for each transaction subject to a goal established pursuant to paragraphs six, seven, or eight of subdivision a of this section, information demonstrating the corresponding contractor's progress towards meeting such goal and, if applicable, any subcontractors' progress towards meeting any goal established pursuant to paragraphs seven or nine of subdivision a of this section, and aggregate information regarding the demographics and compensation of economically disadvantaged region candidates, economically disadvantaged candidates, and apprentices who are economically disadvantaged region candidates, as applicable, relative to all individuals employed by such contractor and, if applicable, subcontractors on such transaction. In compiling this report, the director shall, to the extent he or she deems feasible, use data sources established or maintained by the city for other programs or operations in order to minimize administrative burdens on contractors and subcontractors, provided that where the director determines that such data sources cannot be used to complete such report, the director may adopt rules requiring contractors and subcontractors to provide such additional data necessary to complete this report, and to certify the accuracy of such additional information. Nothing in this subdivision shall be interpreted to authorize the director to promulgate rules requiring labor organizations to provide information on a regular basis to complete such reports.

d. Best efforts. (1) In determining whether a contractor or subcontractor has exercised best efforts to meet the employment goals established pursuant to subdivision a of this section, the director shall consider the degree to which the contractor or subcontractor has endeavored:

(A) to review economically disadvantaged region candidates' and economically disadvantaged candidates' qualifications, as applicable, in good faith;

(B) to advertise employment opportunities, as applicable, in a manner reasonably intended to attract qualified economically disadvantaged candidates or economically disadvantaged region candidates, except that contractors and subcontractors performing construction work pursuant to a project labor agreement shall not be required to advertise employment opportunities for construction work;

(C) to coordinate with referral sources or apprenticeship programs, as applicable, in order to interview, if applicable, and employ such candidates identified by such referral sources or apprenticeship programs, provided that for contractors and subcontractors performing construction work pursuant to a project labor agreement, the director shall only consider the degree to which the contractor or subcontractor has endeavored to meet such goals by complying with the referral provisions of such project labor agreement;

(D) to review and organize the work under the transaction in order to eliminate obstacles to meeting such employment goals;

(E) to monitor and to document the contractor's or subcontractor's efforts to meet the employment goals;

(F) to contact the office of community hiring and workforce development at routine intervals, or as otherwise required by rule, to inform the director of the contractor's or subcontractor's efforts to meet the employment goals; and

(G) to take all other commercially reasonable actions to meet the employment goals.

(2) In order to exercise best efforts, neither contractors nor subcontractors are required:

(A) to undertake an undue financial burden;

(B) to terminate or substantially reduce the work levels of any of a contractor's or subcontractor's existing employees;

(C) to extend an offer of employment to an individual whose labor would not be commercially useful; or

(D) to forgo filling building service opportunities with absorption hires.

e. Discretionary application of goals. Notwithstanding any other provision of this section, employment goals authorized under paragraphs six through nine of subdivision a of this section may, but are not required to be, established for transactions that are emergency procurement contracts procured pursuant to the procedure set forth in section three hundred fifteen of the charter.

f. Adjustment of construction goals. On a biannual basis, the director shall review and thereafter may promulgate rules increasing or decreasing the value of the employment goals established under paragraph seven of subdivision a of this section.

g. Wage payment assurances. The director may promulgate rules setting forth standards and a procedure by which contractors and subcontractors that the director has determined have a record of failing to pay wages, including but not limited to prevailing wages and benefits required pursuant to article eight of the labor law, to individuals performing construction labor under a transaction shall be required to provide additional assurances acceptable to the director in order to receive credit towards the achievement of employment goals set forth in paragraph seven of subdivision a of this section.

§ 3. Paragraph 1 of subdivision b of section 311 of the New York city charter, as amended by local law number 20 of the city of New York for the year 2004, is amended to read as follows:

1. the methods for soliciting bids or proposals and awarding contracts, consistent with the provisions of this chapter**, provided that the director of the office of community hiring and workforce development may promulgate rules authorizing agencies to incorporate into the award methodology for any contract a quantitative factor based on a bidder or proposer's capacity to meet or exceed goals established pursuant to subdivision a of section thirty-four hundred two of the charter, and further provided that agencies incorporating such a quantitative factor into the award methodology for a contract pursuant to such a rule shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law or section thirteen hundred four of the charter, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of the charter**;

§ 4. Subparagraphs (x) and (xi) of paragraph a of subdivision 36 of section 2590-h of the education law, as amended by chapter 98 of the laws of 2019, are amended and two new subparagraphs (xii) and (xiii) are added to read as follows:

(x) a process for emergency procurement in the case of an unforeseen danger to life, safety, property or a necessary service provided that such procurement shall be made with such competition as is practicable under the circumstances and that a written determination of the basis for the emergency procurement shall be required and filed with the comptroller of the city of New York when such emergency contract is filed with such comptroller; [~~and~~]

(xi) procedures for the fair and equitable resolution of contract disputes[~~.~~]**;**

(xii) employment goals established in accordance with the program established pursuant to section thirty-four hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the chancellor or his or her designee; and

(xiii) a quantitative factor to be used in the evaluation of bids, proposals or other offers for the purposes of awarding of contracts based on a bidder, proposer or other offerer's capacity to meet or exceed goals established pursuant to subparagraph (xii) of this paragraph, provided that, when incorporating such a quantitative factor into the award process for a contract, the chancellor, superintendent, or school, as applicable, shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-A of the executive law or section thirteen hundred four of the New York city charter, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of such charter.

§ 5. Subdivision (c) of section 917 of the general municipal law, as separately amended by chapter 1082 of the laws of 1974 and chapter 239 of the laws of 2001, is amended to read as follows:

(c) For the benefit of the city and the inhabitants thereof an industrial development agency, to be known as the New York City Industrial Development Agency, is hereby established for the accomplishment of any

or all of the purposes specified in title one of article eighteen-A of this chapter, except that it shall not have the power to construct or rehabilitate any residential facility or housing of any nature and kind whatsoever, nor shall it use any of its funds to further the construction or rehabilitation of any residential facility or housing of any nature and kind whatsoever. It shall constitute a body corporate and politic, and be perpetual in duration. It shall only have the powers and duties conferred by title one of article eighteen-A of this chapter upon industrial development agencies as of January 1, 1973 except that it shall have the power to finance a rail freight facility **and the power to establish employment goals in accordance with the program established pursuant to section thirty-four hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the chief executive officer of the agency or his or her designee,** and it shall not have the power of condemnation. In the exercise of the powers conferred upon such agency with respect to the acquisition of real property by article eighteen-A of this chapter such agency shall be limited to the geographical jurisdictional limits of the city.

§ 6. Section 816-b of the labor law, as added by chapter 571 of the laws of 2001, is amended to read as follows:

§ 816-b. Apprenticeship participation on [~~construction~~] **certain governmental** contracts. 1. For purposes of this section:

(a) "governmental entity" shall mean the state, any state agency, as that term is defined in section two-a of the state finance law, municipal corporation, commission appointed pursuant to law, school district, district corporation, board of education, board of cooperative educational services, soil conservation district, and public benefit corporation; [~~and~~]

(b) "construction contract" shall mean any contract to which a governmental entity may be a direct or indirect party which involves the design, construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for any building, facility or physical structure of any kind**; and**

(c) "city governmental entity" means a governmental entity that is (i) a city with a population of one million or more inhabitants; or (ii) a city school district or public benefit corporation operating primarily within a city with a population of one million or more inhabitants.

2. Notwithstanding any other provision of this article, of section one hundred three of the general municipal law, of section one hundred thirty-five of the state finance law, of section one hundred fifty-one of the public housing law, or of any other general, special or local law or administrative code, in entering into any construction contract, a governmental entity [~~which~~] **that** is to be a direct or indirect party to such contract may require that any contractors and subcontractors have, prior to entering into such contract, apprenticeship agreements appropriate for the type and scope of work to be performed, that have been registered with, and approved by, the commissioner pursuant to the requirements found in this article. **A city governmental entity that is a direct or indirect party to a contract, including but not limited to a construction contract, may establish in its specifications a requirement**

that, in performing the work, the contractor and its subcontractors utilize a minimum ratio of apprentices to journey-level workers, as established by the government entity but subject to any maximum ratio established by the department of labor, for any classification appropriate for the type and scope of work to be performed, provided that no such minimum ratio shall be established for labor performed pursuant to a construction contract subject to a goal for the employment of apprentices who reside in economically disadvantaged regions. Whenever utilizing [~~this requirement~~] these requirements, the governmental entity may, in addition to whatever considerations are required by law, consider the degree to which career opportunities in apprenticeship training programs approved by the commissioner may be provided.

§ 7. Notwithstanding any law to the contrary, any city-affiliated not-for-profit corporation, as such term is defined in section 3401 of the New York city charter, is authorized to establish employment goals in accordance with the program established pursuant to section 3402 of such charter, including but not limited to employment goals established pursuant to paragraph 7 of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development of the city of New York, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the chief executive officer of such corporation, or a duly appointed designee.

§ 8. Section 1728 of the public authorities law is amended by adding a new subdivision 15-a to read as follows:

15-a. To establish employment goals in accordance with the program established pursuant to section thirty-four hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by the president of the authority or his or her designee;

§ 9. The opening paragraph of paragraph d of subdivision 5 of section 1734 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

the authority determines that it is in the public interest to award contracts pursuant to a process for competitive requests for proposals as hereinafter set forth. For purposes of this section, a process for competitive requests for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule, the capacity to meet or exceed the goals set forth in subdivision fifteen-a of section seventeen hundred twenty-eight of this title and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision three of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals. When the authority includes in the selection criteria for a request for proposals a quantitative factor based on a proposer's capacity to meet

or exceed the goals set forth in subdivision fifteen-a of section seventeen hundred twenty-eight of this title, the authority shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-a of the executive law, section thirteen hundred four of the New York city charter, or section seventeen hundred forty-three of this title, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of the New York city charter.

§ 10. Section 5 of section 1 of chapter 1016 of the laws of 1969, constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 20-a to read as follows:

20-a. To establish employment goals in accordance with the program established pursuant to section thirty-four hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of community hiring and workforce development but shall be taken by a duly appointed designee of the corporation; and

§ 11. Section 8 of section 1 of chapter 1016 of the laws of 1969, constituting the New York city health and hospitals corporation act, is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any other provision in this act, the corporation may establish a quantitative factor to be used in the evaluation of bids for the purposes of awarding of contracts based on a bidder's capacity to meet or exceed goals established pursuant to subdivision twenty-a of section five of this act, provided that when establishing such a qualitative factor, the corporation shall consider the potential impact of such a quantitative factor on businesses certified as minority or women-owned business enterprises pursuant to article fifteen-a of the executive law or section thirteen hundred four of the New York city charter, not-for-profit corporations, and small businesses, as such term is defined in section thirty-four hundred one of the New York city charter;

§ 12. Subdivision b of section 2 of chapter 749 of the laws of 2019, constituting the New York city public works investment act, is amended by adding a new paragraph 12-a to read as follows:

(12-a) A quantitative factor to be used in the evaluation of bids or offers for awarding of contracts based on a bidder or offerer's capacity to meet or exceed goals established pursuant to subdivision a of section 3402 of the New York city charter;

§ 13. No provision of this act shall be construed to invalidate any provision of a project labor agreement, as such term is defined in section 3401 of the New York city charter as added by section two of this act, or otherwise affect the contractual rights of any party to such an agreement.

§ 14. If any clause, sentence, paragraph, or section of this act is declared invalid or unconstitutional by any court of competent jurisdiction, after exhaustion of all further judicial review, such portion shall be deemed severable, and the court's judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or section of this act directly involved in the controversy in which the judgment was rendered.

§ 15. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date by the director of the office of community hiring and workforce development of the city of New York, the chancellor and the city board of the city school district of the city of New York, the president of the New York city school construction authority, the duly appointed designee of the New York city health and hospitals corporation, the chief executive officer of the New York city industrial development agency, and the chief executive officer of any city-affiliated not-for-profit corporation, as such term is defined by section 3401 of the New York city charter as added by section two of this act; provided further that:

(1) sections one, two, three, five, six, seven, eight, nine, ten, eleven, thirteen, and fourteen of this act shall expire and be deemed repealed 7 years after this act takes effect, provided that such expiration and repeal shall not affect any transaction, as such term is defined by section 3401 of the New York city charter as added by section two of this act, entered into or for which a solicitation was released prior to such expiration and repeal, or to any renewals, extensions, modifications, or amendments to such transaction;

(2) the amendments to paragraph a of subdivision 36 of section 2590-h of the education law made by section four of this act shall not affect the expiration of such subdivision and such section and shall expire and be deemed repealed therewith, or 7 years after this act takes effect, whichever occurs earlier, provided that such expiration and repeal shall not affect any transaction entered into or for which a solicitation was released prior to such expiration and repeal, or to any renewals, extensions, modifications, or amendments to such transaction; and

(3) the amendments to the New York city public works investment act made by section twelve of this act shall not affect the expiration and repeal of such act and shall expire and be deemed repealed therewith, or 7 years after this act takes effect, whichever occurs earlier.